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Super Committee Inaction: How It Might Affect You

The committee's failure to act leaves some potentially valuable opportunities

In the wake of the failure of the Congressional "Super Committee" (perhaps misnamed) to resolve the nation's debt problems, we should not expect from Washington any meaningful income or estate tax-related action until after the 2012 election.

Year-end tax uncertainty is becoming an American tradition. In November 26, 2011 issue, the *Wall Street Journal* reported (in "The Tax Mess Deepens") this will be the third straight year that American taxpayers will head into December with major tax-code issues yet to be addressed.

Unless some economic or other catalysts prompt Congress to act, in 2013 the federal estate tax is set to return to 2001 rules, with the personal exemption dropping to $1 million per individual ($2 million for married couples) and the tax assessment rate soaring to 55%. That's a big change from current law, which provides a robust $5 million exemption per individual ($10 million per married couple) and an assessment rate of 35%.

STRATEGIES YOU CAN USE NOW

If you are confused by the current tax situation, you might find comfort in the knowledge that you are not alone. Comfort can also come from knowing that the Super Committee's failure to act leaves some opportunities worth seizing.

For example:

You can take advantage of the current gift tax provisions that allow you to give anyone $13,000 per year without incurring the gift tax – a potentially valuable strategy to transfer wealth to your children or other heirs and reduce your estate tax burden.

You can make charitable gifts now, before the "Pease limit" – which disallows 3% of itemized deductions for upper-income taxpayers – is scheduled to return in 2013.

You can consider giving away appreciated assets (such as shares of stock) rather than cash, since such a donation allows you to avoid the capital gains tax and can get a full deduction of the gift's value.

You might consider making a charitable donation from your IRA. Congress extended this provision through 2011, but it will lapse in 2012 unless lawmakers act. If you are older than 70½, you can contribute up to $100,000 of IRA assets into one or more qualified charities. While there is no deduction, the gift is excluded from your income.

There is no clarity as to what 2013's rates will be on capital gains, interest and dividends. But the current top rate of 15% on long-term gains and dividends is at a historic low. A 3.8% tax on net investment income will take effect next year for many joint filers with adjusted gross incomes of $250,000 or more (or $200,000 for single filers).

Also, in case you are thinking about converting your traditional IRA to a Roth IRA, remember that, for such conversions to count for 2011, they must be completed by December 31.

For more information, please contact our office at 480-345-8845 or E-mail: info@halaw.com or visit our website at www.halaw.com

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